



HaRav Shaul Israeli zt"l
Founder and President

HEMDAT YAMIM

Parashat HaShavua

R'ei, 31 Av 5779

“See” “before you” – Singular and Plural

Harav Shaul Yisraeli – from Si'ach Shaul p. 504-5

Our *parasha* begins: “See (singular), I am placing before you (plural) today a blessing and a curse” (Devarim 11:26). Why does the *pasuk* start with a singular verb and switch to a plural pronoun? Apparently, it is to teach us about the double nature of service of Hashem, which applies both to the service of the individual and to the service of the public.

Regarding the individual, the Kuzari (3:5) describes the pious person as one who knows how to put every matter in its proper place. In other words, a person is a microcosm of a whole world, and the foundation of this world is that man should have dominion over himself. Even in the realm of “the rule of Torah,” the “before you” (plural) of the communal comes after the “see” (singular) of the individual. Even if the public makes sure to have laws, this law and that law are of no value if each individual will not abide by them.

We have special sensitivity toward matters of the community, but if the individuals who comprise it are not taken care of properly, the community will not have anything either. Sometimes we speak about a just society, and yes sometimes we afflict the individual with a variety of claims based on the contention that the needs of the multitudes have precedence. It would seem that the idea of a state demands of the individual to make sacrifices for the nation. But this is not [always] so. There is a halacha that if a whole city is told that they must give over one person to be killed in order to save the whole city, one must not hand him over (Tosefta, Terumot 7:20). The value of the individual is not reduced even when there are many corresponding to him.

However, there is also another side to the picture. Some people do not see the special standing of the community at all and think that it is only about the individual. They reason that if not everyone can be on the level of some of the individuals, there must not be value to the community. They forget that only within the context of a community can the accomplished individual emerge. To the extent that the individuals give their all to the communal effort, the community as a whole can become elevated.

We pray for “long life,” life that is not fleeting but rather that traverses various periods. A person should not have an outlook that just focuses on the moment. Certainly, the community must not be impatient. Without a doubt, had there not been impatience in Israel, we would have been able to more do for the country with the hope that it would bring a significant turn for the better.

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Ask the Rabbi

by Rav Daniel Mann

Buying a House with a Hidden Treasure

Question: My student asked me the following. Shimon buys a house from Reuven at a normal price even though he knows (and Reuven does not) that there are many gold coins hidden in the attic walls. Is the sale valid? Why/Why not?

Answer: Before we get to the excellent conceptual question, we must briefly raise some points that can, under certain circumstances, make the question moot in this scenario.

First, purchasing the house and taking the gold are halachically unrelated. Generally, the movable objects within a house are not sold along with the house. So, if between selling the house and vacating it, Reuven found and took the coins, Shimon could not have complaints or void the sale, as the house was given over as stipulated. Similarly, if Reuven did not take the money and finds out later, he can (try to – see below) complain about the money, as it was not included in the sale.

Secondly, it is far from clear that Reuven owns the gold coins. If he does not know about them, he apparently did not put them there. Whoever did, or his inheritor, is likely still the owner, and Shimon might have to return them, not keep them. Even if the money became ownerless, if it is hidden in a manner that Reuven was likely to never find it, he did not acquire the treasure with the house. Thus, Shimon is like one who knows where an ancient treasure is found and waits for others to leave the area and then digs it up. He would not be taking Reuven's coins. See further details and sources in *Living the Halachic Process*, III, I-16.

So, we will present the fundamental question with a different scenario. A petroleum exploration company discovered vast deposits in a certain region and sent people to secretly buy up as much land as possible from unknowing sellers.

There are generally two grounds to void a sale after the fact. 1. *Mekach ta'ut* – the object was flawed in such a way that we can assume that the buyer would not have agreed to the purchase had he known. 2. *Ona'ah* (mispricing) – while the sides would have agreed to the sale, the price was far enough from the going rate to make it grossly unfair to one side.

The *gemara* (Ketubot 97a) tells of people who sold real estate to buy grain during a famine, without knowing that a large shipment was about to arrive. Rav Nachman said that they could back out of the sales because it was based on a mistake about grain's availability. Kinyan Torah Bahalacha (I:14) applies this concept to a case of one who sold land that had been slated for agriculture when a governmental decision to allow home building had been made but not publicized. He says that if the seller would not have sold it had he known, he can back out. If he would have sold it anyway but at a much higher price, then we get into the issue that the laws of *ona'ah* do not generally apply to real estate (Shulchan Aruch, Choshen Mishpat 227:29). On the other hand, the Rama (ad loc.) states that if the price was double (or half) of the going rate, the laws do apply. Also, according to most *poskim*, although the laws of *ona'ah* (returning money, nulling sales) do not apply to real estate, there is still a prohibition to buy or sell at an unfair price (R. Akiva Eiger ad loc. based on Ramban; S'ma 227:51).

Certain *poskim* raise other distinctions. The general rule is that proper pricing follows what is prevalent at the time and place involved (see Pitchei Choshen, Ona'ah 11:7). The Imrei Yosher (II, 155) says that if information changes the price, it depends if it is known to a majority of the population. Also, the *gemara* (ibid.) indicates that there is a difference between a situation that is about to be revealed and one that may remain unknown for an indefinite amount of time. The Kesef Hakodashim (CM 227:(9)) posits that even when a situation is about to be known, that only makes a difference when the issue is lack of interest in the transaction had the information been known. If, though, it is about price propriety, the going rate at that time/place based on the publicly available information is the determinant.

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Ein Ayah

(from the writings of Harav Avraham Yitzchak Hakohen Kook, z.t.l.)

The Day of Firsts – part II

(condensed from Ein Ayah, Shabbat 9:57)

Gemara: [The first day of the month of Nisan of the second year in the desert] took ten crowns for itself, as the first in these regards: 1. to the days of creation (i.e., Sunday); 2. for the tribal princes (who brought special sacrifices for the inauguration of the *Mishkan* (Tabernacle) starting that day); 3. for the functioning of the *kohanim*; 4. for the service [in the *Mishkan*]; 5. for fire coming down [from the heaven]; 6. for eating the meat of sacrifices [in a specific place]; 7. for the dwelling of the Divine Presence; 8. to bless Israel [via the *kohanim*]; 9. for the prohibition to sacrifice anywhere but in the *Mishkan*; 10. for the months [of the Jewish year].

Ein Ayah: Israel, as the essence of mankind and of creation, is “collected” to be centered in such a way that it elevates everything. When it appears [on the “stage of history”] in its most complete form, there is a gathering together of light that includes all that is special. This includes the areas of the personal, the societal, the historical and the cosmic.

[We saw last time Rav Kook’s analysis of the first five matters that were special on that unique day. We continue now with the latter five.]

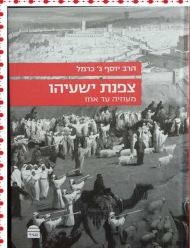
6. Hashem, Who called the world into existence, continually encourages His eternal nation to fill the world with signs of the purpose behind creation. In this world, everything can be used for sanctity, and thus there is flesh that is to be eaten as part of a wonderful service in sanctity, as was first done on that day.

7. Hashem’s presence in the world can be felt both with internal and external senses, in every twist and turn of life, whether in the internal or external world. Hashem is connected to the world with all of His glory, whether through actions that occur or through thoughts and spiritual presence. His providence brings about matters and His spirit sends forth its “branches” throughout every part of the universe. On this day, the Divine Presence, in its more glowing form, began to appear in a qualitatively new form.

8. Hashem is the power of life, the source of all success, the wellspring of all blessing, and the blessing of all of the worlds. He provides the blessing to the spirit of every special individual, and the blessing of a nation to the various generations of a nation, allowing it to be maintained according to its national goals and character. All of this is contingent upon and enmeshed in the divine life source. This day was a first in the blessing of Israel.

9. The special way that Israel, as a united nation that is collectively connected to the light of Hashem and carries out its actions in an exact way according to the word of Hashem, causes there to be centrality in its service of Hashem. The guarding against the explosion of the powers and having conceptions stray from those actions that are uniquely sanctified is accomplished with the help of such laws as forbidding sacrifice anywhere but in the *Mishkan*, which started on this day.

10. The centrality that unites the soul of the nation is the thing that enables the nation to make its imprint on time and enable it to sanctify time. They can create a month that has the divine light that Hashem shined on Bnei Yisrael in Egypt, which enabled them to be what they became among the nations. This ability was expanded to all of time and made the month of the Exodus “the head of the months for you” (Shemot 12:2). Each month received its character, being connected to sowing or harvesting, heat or frost, just like the first month received its character as the one in which Hashem revealed himself to His servants.



Tzofnat Yeshayahu - Rabbi Yosef Carmel

The Prophet Yeshayahu performed in one of the most stormy and dramatic periods of the Israeli nation's life, a period of anticipation for the Messiah that was broken by a terrible earthquake, and also caused a spiritual and political upheaval. The light at the end of the tunnel shone again only in the days of Chizkiyah.

"Tzofnat Yeshayahu – from Uziya to Ahaz" introduces us to three kings who stood at this crossroad in our nation's history: Uziya, a king who sought God but was stricken with leprosy because of his sin; Yotam, the most righteous king in the history of our people; And Ahaz, the king who knew God but did not believe in His providence.

In his commentary on the prophecies of Yeshayahu, Rabbi Yosef Carmel, Head of the Eretz Hemdah-Gazit rabbinical court and a disciple of Rabbi Shaul Israeli zt"l, clings to the words of Hazal, our sages, and to the commentaries of the Rishonim, the great Jewish scholars of the middle ages, and offers a fascinating way to study Tanach. This reading attempts to explain the Divine Plan in this difficult period and to clarify fundamental issues in faith. Tzofnat Yeshayahu reveals to the reader the meaning of the prophecies in the context of the prophet's generation and their relevance to our generation.

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P'ninat Mishpat

Canceling Checks Found by a Third Party (based on ruling 71003 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiff (=pl) was given three checks for a total of 37,000 shekels, written from the account of the defendant (=def), by means of a third party (=tp). Def gave them as payment to tp for materials purchased for his business, and tp gave it to pl for services expected. Tp claims that pl did not do what he had promised and therefore asked def to cancel the checks and pay tp in a different manner, which def did. Now pl demands that def allow the cashing of the checks. Pl claims that he warned def not to cancel the checks, a claim that def denies.

Ruling: The question of whether def was allowed to cancel checks is linked to the question of how to view a check (especially an open one), a topic discussed by many contemporary *poskim* and *dayanim*. The Shevet Halevi (VII:222) views a check just as instructions to the bank to pay the check holder. As such, until it is redeemed, the account owner can cancel the check, and this would work even if it caused loss to a third party.

Rav Z.N. Goldberg (Techumin XII, p. 295-6) was uncertain whether the writing/giving of the check includes a self-obligation to ensure the recipient receives the money. Logic and experience dictate that it does. Although the check does not contain language of self-obligation, there is an *umdana* (a presumption based on understanding the situation) that, when writing a check, one is obligating himself to pay. This has precedent. The Rambam (Ishut 16:7-9) says that when there is a *takana* to expand the ability to collect a *ketuba* and it is known to the groom, we can assume that he had it in mind even though it is not mentioned in the *ketuba*. One could argue that that is different because most people explicitly accept the extension of the *ketuba*, whereas here people do not explicitly obligate themselves with a check.

However, there is a known construct to which a check fits, called a *mamrani* – a document used at the time of the *Rishonim* through which one would be obligated to whomever ended up with the *mamrani*. This was assumed to work even without writing a document to transfer a debt note (as Halacha requires by a regular document of obligation). There are different explanations as to how this could work, including based on *situmta* (societal acceptance). It is very accepted in our days that when one writes and gives a check, he knows that he is not allowed to cancel it, and the *Minchat Yitzchak* (V:119) says that this has become a binding custom based on the law of the land. The *Pitchei Choshen* says that this is true even though technically a person can cancel the check (he can be taken to court and forced to pay unless he can demonstrate foul play on the other side). This is even more so in a case like this, that def left the place of the recipient's name open (see *Even Yisrael* VIII:91), as it really gives the check a status of a *mamrani*. Therefore, def was not allowed to cancel the checks, and he must honor them and pay expenses.

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Yair Menachem ben Yehudit Chana / David Chaim ben Rassa
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